

REMARKS

Claims 1 and 3-78 are pending in this application. By this Amendment, claims 67-78 are added. Support for the new claims 67-72 can be found, for example, in Figs. 6-10 and 12 and the associated description. Support for new claims 73-78 can be found, for example, in originally filed claims 12 and 13. No new matter is added.

Applicants thank the Examiner for indicating that claims 5-9 and 20-30 recite allowable subject matter.

I. Claims 1, 3, 4, 10-12, 18, 19, 24 and 65

The Office Action rejects claims 1, 3, 4, 10-12, 18, 19, 24 and 65 under 35 U.S.C. §103(a) over Viitala (U.S. Patent No. 4,643,713) in view of Oshiyama (U.S. Patent No. 4,976,708). Applicants respectfully traverse the rejection.

Claim 1 recites "a first chamber opening in one of the walls . . . a second chamber opening . . . being located in a middle portion in a length of a top portion of the chamber; and a third chamber opening . . . being located in a middle portion of a bottom portion of the chamber." The Office Action admits that Viitala fails to disclose the second chamber opening being located in the middle of the top portion but alleges that modifying Viitala "would represent a mere rearrangement of parts that would not affect the functionality of the device, and instead would only represent a cosmetic design choice." Office Action at pages 4 and 5.

In combining Viitala and Oshiyama, the Office Action ignores the explicit teachings of Viitala. Viitala states "[t]he vent opening 46 and inlet 42 are spaced as far from each other as possible at the inlet end 70. Likewise, the outlet 44 is diagonally spaced as far as possible from vent 46." Viitala at col 3, lines 45-47. Further, in Viitala, "[t]he shape of the blood compartment functions as an inhibiting shape to eddies and swirls in the blood which can trap air bubbles and also allows for easy and complete drainage of blood at the end of a surgical

procedure." Viitala at col. 4, lines 49-54. Thus, Viitala teaches that the relative locations of vent opening 46, inlet 42 and outlet 44 are important, that together, the overall shape and specific arrangement of Viitala's structure leads to the specific function Viitala discloses, and that rearrangement of the Viitala parts would affect the function of the device, and would not represent a cosmetic design choice. Viitala thus requires that the opening not be in the locations required by Applicants' claims.

Oshiyama expresses indifference to the location of Oshiyama's vent port 18. Oshiyama at col. 6, lines 10-12. By relying on Oshiyama to move Viitala's vent opening 46 and outlet 44, the Office Action ignores the express teachings of Viitala. When one reference expressly teaches the importance of certain features, and a second reference expresses indifference as to features, one of ordinary skill would not look to the reference that expresses indifference for the particular feature. That is, if one reference expressly teaches where to locate a feature, and a second reference does not recognize the importance of the location, one of ordinary skill would not simply ignore the reference that recognizes the importance of that feature. Thus, by ignoring Oshiyama's express indifference to vent port 18's location, the Office Action fails to consider the teachings of the prior art in its entirety. MPEP 2141.03(VI).

For at least this reason, the rejection is improper and should be withdrawn.

In addition, the above quoted features provide a solution to a disadvantage of the prior art, i.e, a bubble trap that is fully functional at large tilt angles. *See* MPEP §2145(X)(D)(3) and Applicants' originally filed specification at paragraphs [0053]-[0055]. Thus the claimed arrangement significantly affect the functionality of the device, and is not a cosmetic design choice. The prior art of record neither recognizes that bubble traps can function poorly when tilted, nor does the prior art of record provide a solution to this problem.

Further, the teachings of the references conflict. *See* MPEP §2143.01(II). Oshiyama allegedly suggests that a vent for bubbles can be located anywhere along a top portion of a bubble trap. Oshiyama at col. 6, lines 10-12. But Viitala provides specific parameters where Viitala's vent 46 should be located, which do not include the location recited in Applicants' claims. Viitala at col. 3, lines 43-56. When the references are taken together as a whole, one of ordinary skill would not simply disregard Viitala's specific teaching based on Oshiyama's indifference as to the location of a vent.

Finally, the above-quoted features of claim 1 would not have been obvious to try in view of Oshiyama because (1) there was not a recognized problem or need in the art at the time of the invention, (2) there was not a finite number of identified, predictable potential solutions to a recognized problem or need, and (3) one of ordinary skill in the art could not have pursued known potential solutions with a reasonable expectation of success. MPEP §2144.06(II). Regarding (1), as discussed above, the references do not address tilting a bubble trap as a problem. Regarding (2), there was not a finite number of identified, predictable solutions to a recognized problem or need because the references do not recognize the problem, and Oshiyama cannot be interpreted as providing a finite number of solutions because locating a vent "anywhere" on a top portion of a bubble trap as allegedly disclosed represents an infinite number of locations. Regarding (3), the references do not provide any known potential solutions because they do not even recognize the problem.

For all of these reasons, claim 1 is patentable over the combination of Viitala and Oshiyama. Claims 3, 4, 10-12, 18, 19, 24 and 65 are patentable by reason of their dependency from independent claim 1, as well as for the additional features they recite. Applicants respectfully request withdrawal of the rejection.

II. Claims 13-17, 56-64 and 66

The Office Action rejects claims 13-17, 56-64 and 66 under 35 U.S.C. §103(a) over Viitala in view of Oshiyama and Sadri (U.S. Patent No. 5,494,822). Applicants respectfully traverse the rejection.

The rejection of claims 13-17 is premised upon the rejection of claim 1 over Viitala and Oshiyama. As discussed above, Viitala and Oshiyama fail to disclose, and would not have rendered obvious, all of the features of claim 1. Further, Sadri fails to overcome the deficiencies of Viitala and Oshiyama.

Claim 56 recites "a first chamber opening in one of the walls . . . a second chamber opening . . . being located in a middle portion in a length of a top portion of the chamber; and a third chamber opening in one of the walls . . . being located in a middle portion of a bottom portion of the chamber." The rejection of claim 56 is premised upon the same reasoning as the rejection of claim 1. As discussed above, Sadri fails to overcome the deficiencies of Viitala and Oshiyama. Thus claim 56 is patentable at least for the reasons discussed above with respect to claim 1 and claims 57-64 and 66 are patentable by reason of their dependency from claim 56, as well as for the additional features they recite. Applicants respectfully request withdrawal of the rejection.

III. Rejoinder of Withdrawn Claims

Applicants respectfully request rejoinder of withdrawn claims 31-55, upon the allowance of at least independent claim 1. Independent claim 31 includes features similar to those recited in independent claim 1. Thus, upon allowance of claim 1, rejoinder and allowance of claim 31, and the claims depending therefrom, are respectfully requested. See MPEP §821.04.

IV. New Claims 67-78

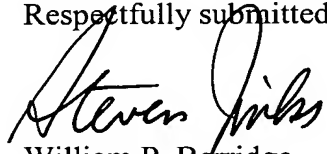
New claims 67-78 are also patentable. For example, new independent claim 71 is patentable at least because the applied references fail to disclose, or to have rendered obvious, "a liquid at a level that is below the second chamber opening and above the third chamber opening when the apparatus is tilted at angles up to 70° in any direction." New claims 67-70 and 72-78 are patentable at least by reason of their dependency from allowable claims, as well as for the additional features they recite.

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In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


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Attachments:

Petition for Extension of Time
Request for Continued Examination
Amendment Transmittal

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